

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

December 19, 2003

Dear Xxxxx:

This letter is in response to your letter dated September 11, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

As I read from your information on the internet regarding Sales and Use Tax our company would be Exempt from collecting a tax. ABC sells and services Electronic Agriculture Scales that are used primarily in production agriculture. I wrote a letter on April 16, and another letter on June 24th, and today I received a call from PERSON in your Department requesting the ST-1 forms. In the ST-19 booklet it states that all we need is a ST-587 form or a certificate from the buyer that documents the purchase is tax exempt. If you could please send us some ST-587 forms we will start using the forms. Please respond as soon as possible so we can resolve this issue.

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. The definition of "production agriculture" is set forth under subsection (b) of the regulation and states as follows:

"Production agriculture is the raising of or the propagation of: Livestock, crops for sale for human consumption; crops for livestock consumption; and production seed stock grown for the propagation of feed grains and the husbandry of animals or, for the purpose of providing a food product, including the husbandry of blood stock as a main

source of providing a food product. Production Agriculture also includes animal husbandry, floriculture, aquaculture, horticulture, and viticulture. (Section 2-35 of the Act)”

Please also note that the type of item is not the only consideration in determining whether or not it will qualify for the exemption. Whether a specific item qualifies for the exemption depends also on how the item will be used by the purchaser. Consumable supplies generally do not qualify for the exemption. See subsection (k) of the enclosed copy of 86 Ill. Adm. Code 130.305.

Please note that purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in subsection (m) of Section 130.305.

The sale of an electronic agriculture scale is not necessarily exempt from taxation. It is possible that not all of your sales and services are exempt from taxation. Therefore, you must complete the ST-1 form and indicate the sales where an exemption certificate was received from the purchaser. You may get copies of the ST-587 exemption certificate form from our website.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.